

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
WESTERN DIVISION (TOLEDO)

HAWAII IRONWORKERS ANNUITY)	No. 3:10-cv-00371-JGC-JRK
TRUST FUND, on Behalf of Itself and All)	
Others Similarly Situated,)	Hon. Chief Judge James G. Carr
)	Magistrate Judge James R. Knepp II
Plaintiff,)	
)	<u>CLASS ACTION</u>
vs.)	
)	
BERNARD N. COLE, et al.,)	
)	
Defendants.)	
_____)	

STIPULATION FOR VOLUNTARY DISMISSAL OF THIS ACTION
PURSUANT TO FED. R. CIV. P. 41(a)(2)

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Liaison Counsel

Lead Counsel for Plaintiff

WHEREAS, this action was filed on February 18, 2010 alleging violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 promulgated thereunder against Bernard N. Cole (a/k/a Nick Cole), Douglas W. Hodge, William E. Hennessy and Robert E. Steimle (“defendants”);

WHEREAS, defendants filed answers to the Complaint on June 6, 2011;

WHEREAS, Plaintiff Hawaii Ironworkers Annuity Trust Fund seeks to dismiss with prejudice this action pursuant to Fed. R. Civ. P. 41(a)(2), against the defendants;

WHEREAS, Plaintiff is not seeking dismissal of this action to create or expedite any appealable right for Plaintiff but is instead seeking to bring this case to a full and complete conclusion;

WHEREAS, the parties have met and conferred, and:

- (1) the Plaintiff has agreed to the dismissal of this action with prejudice and without costs to any party hereto;
- (2) the Plaintiff has agreed that upon the entry of an order dismissing this action with prejudice the Plaintiff waives any and all rights to appeal any order entered in this action on or before the date that the said order of dismissal is entered, including but not limited to the Court’s Order filed September 4, 2013 denying the Plaintiff’s Motion for Class Certification (Dkt. No. #221) and the Amended Order filed September 7, 2011 dismissing the Plaintiff’s Rule 10b-5(b) claims (Dkt. No. #116); and
- (3) defendants have expressed no objection to the dismissal with prejudice of this matter in the manner agreed upon as stated in subparagraphs numbered (1) and (2) above; and,

WHEREAS, subject to the approval of the Court, the parties agree as follows:

1. This action will be dismissed with prejudice pursuant to Fed. R. Civ. P. 41(a)(2).
2. Upon entry of an Order dismissing this action with prejudice, Plaintiff waives any and all rights to appeal any order entered in this action on or before the date that the said order of dismissal is entered, including, but not limited to, the Court’s Order filed September 4, 2013 denying

the Plaintiff's Motion for Class Certification (Dkt. No. #221) and the Amended Order filed September 7, 2011 dismissing the Plaintiff's Rule 10b-5(b) claims (Dkt. No. #116).

3. Each party in this action agrees not to seek reimbursement of costs incurred in said matter from any other party herein.

4. Each party in this action releases any and all claims, whether known or unknown, they may have against any other party herein, and/or their counsel, relating to the initiation, prosecution, defense and/or termination of this matter.

5. Each party and/or their counsel have complied with Fed. R. Civ. P. 11 in the initiation, prosecution, defense and/or termination of this matter.

DATED: November 2, 2015

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Attorneys for Defendant Robert Steimle

* * *

ORDER

Having reviewed the Stipulation for Voluntary Dismissal of this Action Pursuant to Fed. R. Civ. P. 41(a)(2), and having determined that the requirements of Fed. R. Civ. P. 41(a) (2) have been met, IT IS HEREBY ORDERED THAT:

1. This Action is hereby dismissed with prejudice and without costs.
2. Any rights that the Plaintiff may have or may have had to appeal any Order entered in this Action on or prior to the date of this Order, including, but not limited to, the Court's Order filed September 4, 2013 denying the Plaintiff's Motion for Class Certification (Dkt. No. #221) and the Amended Order filed September 7, 2011 dismissing the Plaintiff's Rule 10b-5(b) claims (Dkt. No. #116), have been and are hereby waived by the Plaintiff.
3. Any and all claims, whether known or unknown, that each party may have or may have had against any other party herein, and/or their counsel, relating to the initiation, prosecution, defense and/or termination of this matter are released.
4. Each party and/or their counsel have complied with Fed. R. Civ. P. 11 in the initiation, prosecution, defense and/or termination of this matter.
5. This dismissal operates as an adjudication on the merits.

6. The Clerk is hereby directed to immediately enter Final Judgment in this matter in accordance with the terms of this Order.

DATED: 11/5/2015

s/James G. Carr
HONORABLE JAMES G. CARR SENIOR
U.S. DISTRICT JUDGE